IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO: 12877 of 2005

Between:

1 N.V.A.Rao, S/o.Sivaiah,
Rama Rangapuram, V.Kottapalli Mandal, E.G.District.
2 K.Ch.Venkata Rao, S/o.Naganna,
Polimeeru, Peddapuram Mandal, E.G.District.
3 Ch.Perayya, S/o.Appa Rao,
Harigena Nagar, Indrapalem, Kakinada, E.G.District.
4 M.Rambabau, S/o.Veeranna,
Veera Raghavapura, Near Vigneswara Theatre, Samalkota,

E.G.District.
5 G.Babu Rao, S/o.Brahmam,
Polimeeru, Peddapuram Mandal, E.G.District.

..... PETITIONERS

AND

1 The Depot Manager, APSRTC, Kakinada, E.G.District
2 The Regional Manager, APSRTC, Rajahmundry, E.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in not paying the retiremental benefits as per the amended Regulation 6A(5) of the APSRTC Employees (Service) regulations 1964 is illegal, arbitrary, against principles of natural justice, contrary to service Regulations and Violative of Article 14, 16 and 21 of the Constitution of India consequently direct the respondents to pay the difference amount of retirement

benefits according to the said amended Regulation as detailed in the legal notice dt.1-2-2005.

Counsel for the Petitioner: MR.S.A.RAZAK

Counsel for the Respondents: MS.K.UMADEVI SC FOR APSRTC

The Court at the admission stage made the following:

ORDER:

This writ petition is filed by the petitioners seeking writ of Mandamus declaring the action of the respondents in not paying retirement benefits as per the amended regulation 6 A (5) of the A.P.S.R.T.C. Employees (Service) Regulations, 1964, as illegal, arbitrary and against the principles of natural justice as well as discriminatory offending the provisions of the Constitution of India, and consequently, to direct the respondents to pay the differential amount payable to the petitioners in accordance with the amended regulations as detailed in the legal notice dated 01-02-2005.

2. According to the petitioners, while they were working in the respondent-Corporation, they were found medically unfit to continue in service and therefore, an order of retirement was passed on medical grounds under the impugned order dated 07-01-2004. The grievance of the petitioners is that on retirement on medical grounds, the petitioners are entitled for ex-gratia and other benefits as per the amended regulation which came into effect from 08-10-2003 where 6 A (5) was amended. As the additional benefits are not paid to the petitioners, they have come up with the present writ petition.

3. At the time of hearing, the learned Standing Counsel for the respondent-Corporation, however, contended that though 6 A (5) was amended, the said amended regulation was approved by the State Government only with reference to 150 drivers, therefore, the same regulation cannot be extended to the

petitioners. But the learned Standing Counsel could not explain whether the said amended regulation would be approved by the State Government with reference to each of the employee of the Corporation, however, stated that the regulations that are being framed by the Corporation requires to be approved by the State Government in terms of Section 45 of the Road Transport Corporations Act, 1959.

4. Heard both sides and considered the material on record.

5 . The grievance of the petitioner is that though regulation 6 A (5b) was amended, as per which in case of retirement of drivers on medical ground they may be extended all terminal benefits apart from an ex-gratia payment equivalent to 1 ½ months emoluments (pay and DA) last drawn for each completed year of service or monthly emoluments at the time of retirement on medical grounds multiplied by the balance months of service left before the normal date of retirement, which ever is less. According to the petitioners, the benefit under the above amended provision is not extended to them, though the amendment came into effect from 08-10-2003.

6. The stand of the Corporation is that as the amended regulation is required to be approved by the State Government, and this amended regulation of 6 A (5b) was approved only with reference to 150 drivers. Therefore, the said benefit cannot be extended to the petitioners.

7. The learned Standing Counsel also placed a copy of the proceedings of the Government dated 09-05-2005, but it is not shown how a regulation which governs the entire Corporation and its employees could be approved only with reference to 150 drivers when there are thousands of drivers working in the respondent-Corporation. From the proceedings, it is not clear how the regulation could be amended and the way it was amended. It is for the State Government either to accept the amended regulation in totality i.e., applying to all the employees or it can be rejected, but it cannot be extended or approved

only with reference to a particular number of employees or drivers only. If such a regulation is allowed to continue in the Corporation Regulations, it would amount to discrimination affecting the rights of the other employees with reference to whom such regulation was not approved. Therefore, it would be proper to extend the said amended regulation to all the employees who were in service as on the date of the amendment, and if so, the petitioners are also entitled. In fact the proceedings placed before this Court though refers that the amended regulation was approved extending it to 150 drivers, it is not known to which 150 drivers the said amendment could be extended. In the absence of any specific particulars also, the amended regulation has to be extended even to the petitioners, and if so, the petitioners are entitled for the benefit of the amended regulation 6 A (5b) of the A.P.S.R.T.C. Employees (Service) Regulations, 1964.

8. Under the above circumstances, the writ petition is allowed directing the respondent-Corporation to extend the benefits of amended regulation 6 A (5) to the petitioners and pay the benefits to which the petitioners are entitled to, within a period of six weeks from the date of receipt of a copy of this order.

9. Accordingly, the writ petition is allowed. No order as to costs.

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S.ANANDA REDDY, J

20th July, 2005

SKM

Copy to:

1 The Depot Manager, APSRTC, Kakinada, E.G.District

2 The Regional Manager, APSRTC, Rajahmundry, E.G.District.

3 Two C.D. Copies.